

WISHA REGIONAL DIRECTIVE

Department of Labor and Industries

Division of Occupational Safety and Health

1.35 IDENTIFICATION OF PUBLIC EMPLOYERS FOR DOSH PURPOSES

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I. Background

Title 49.17 RCW, the Washington Industrial Safety and Health Act (WISHA) applies to virtually all employers operating within the state of Washington, including public employers other than agencies of the federal government. As a result, DOSH Compliance staff must periodically inspect such employers, including state agencies, counties, municipal governments (towns and cities), and special taxing districts.

Public employer inspections raise questions about which public entity to name on the citation, especially when it is a local government, which in turn can affect repeat violations, failure-to-abate citations, and calculation of employer size for penalty purposes.

To answer these questions, WISHA Policy & Technical Services and Legal Services staff reviewed a wide range of criteria in an effort to determine the best guidance. Those criteria include issues such as budget control, scope of activities, uniqueness of safety and health hazards, degree of management authority, common mission, etc. This WISHA Regional Directive provides DOSH compliance staff with specific guidance regarding the application of these complex and, at times, conflicting criteria.

II. Scope and Application

This WISHA Regional Directive (WRD), which remains in effect indefinitely, provides guidance regarding the appropriate identification of public sector employers. This WRD incorporates the substance of WRD 1.35, issued September 25, 1997, which are hereby rescinded.

III. Special Inspection Protocols

DOSH compliance staff should cite public sector employers according to the following criteria, applying the same criteria to repeat and failure-to-abate violations and to the calculation of employer size for penalty purposes:

A. *How should state agencies be identified for DOSH purposes?*

DOSH staff should cite a state agency, board or commission, except for the Department of Social and Health Services (DSHS), as a *single employer*. If necessary, the compliance officer may cite the state agency, board or commission first, followed by "dba" and the name of the specific program or agency subdivision.

1. Each of the DSHS "administrations," which are headed by an assistant secretary, should be cited as a *single employer* (the following list reflects the current organization):
 - Children's Administration;
 - Economic Services Administration;
 - Medical Assistance Administration;
 - Aging & Adult Services Administration;
 - Health & Rehabilitative Services Administration;
 - Juvenile Rehabilitation Administration.
2. For DSHS activities outside the separate "administrations," DOSH Compliance staff should cite "The Department of Social and Health Services."

B. *How should local public entities be identified for DOSH purposes?*

With the exception of the public entities listed below, DOSH Compliance staff should cite counties, cities, towns and local taxing authorities as *single employers*. Again, compliance staff may provide more detail by using "dba," as described in III-A above.

Each of the following local government entities should be cited as a separate employer:

1. Municipal fire departments;
2. Municipal and county law enforcement or "public safety" agencies (joint fire protection and law enforcement operations);
3. Large, essentially independent profit-making operations (such as the Washington Convention Center, the King Dome and the Tacoma Dome). Staff should consult Compliance Operations before applying this criterion to organizations other than those listed as examples.

Note: If the compliance officer has any doubt about whether a subdivision or the entire public entity should be cited, he or she should treat the larger entity as the employer.

Approved: _____
Stephen M. Cant, CIH, Assistant Director
Department of Labor and Industries
Division of Occupational Safety and Health